

AMENDED IN SENATE APRIL 29, 2003

AMENDED IN SENATE APRIL 21, 2003

AMENDED IN SENATE APRIL 8, 2003

SENATE BILL

No. 833

Introduced by Senator Machado

February 21, 2003

An act to add Section 6533 to the Government Code and to amend Section 1011.5 of the Water Code, relating to water.

LEGISLATIVE COUNSEL'S DIGEST

SB 833, as amended, Machado. Eastern Water Alliance Joint Powers Agency.

(1) Existing law authorizes public agencies to enter into joint powers agreements.

This bill would authorize the Eastern Water Alliance Joint Powers Agency, ~~by ordinance, to adopt a procedure for issuing permits for the exportation of any groundwater from that portion of the groundwater basin that underlies the boundaries of the joint powers agency. The bill would provide that after the date of the adoption of the ordinance, any ordinance adopted by San Joaquin County or the San Joaquin County Flood Control and Water Conservation District governing the extraction or exportation of groundwater would not apply within the boundaries of the joint powers agency regardless of the date of adoption.~~

~~The bill would authorize the joint powers agency to grant funds to a member public agency for the purposes of assisting that *member* public agency in acquiring water if the board of *directors* determines that water supply will benefit the groundwater basin as a whole and that *member*~~

public agency would otherwise be unable to acquire that water. The bill would authorize the Board of Supervisors of San Joaquin County to grant to the joint powers agency funds from the county general fund or Zone 2 of the San Joaquin County Flood Control and Water Conservation District that are available to carry out any purposes of the joint powers agency for which the county *or district* is authorized to expend funds.

The bill would authorize the joint powers agency to impose annually a plan implementation charge on landowners within its boundaries for the property related service received from improved groundwater management and planning, and for improved groundwater levels and availability, provided by the joint powers agency for the purposes of initiating, carrying out, and completing the powers, projects, and purposes of the joint powers agency. The bill would provide for the collection of the charge, at the option of the joint powers agency, by the county or the joint powers agency. Because the bill would authorize the joint powers agency to establish collection duties on the county to collect the charge, the bill would impose a state-mandated local program.

(2) Existing law declares that when a holder of an appropriative right fails to use water as a the result of conjunctive use of surface water and groundwater involving the substitution of an alternative supply for the unused portion of the surface water, any cessation of use of that appropriated water is deemed to be a reasonable and beneficial use of water to the extent of that cessation and to the extent that the appropriated water is put to reasonable and beneficial use. Existing law, until January 1, 2007, authorizes the substitution of the alternate supply, for the purposes of that provision, to be made from the Eastern San Joaquin County Basin if certain requirements are met.

This bill would make that provision relating to the Eastern San Joaquin County Basin operative indefinitely.

(3) The bill would declare that, due to the unique circumstances pertaining to the Eastern Water Alliance Joint Powers Agency that the bill is intended to remedy, a general statute within the meaning of specified provisions of the California Constitution cannot be made applicable and a special statute is necessary.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.



This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
2 following:
- 3 (a) The problems associated with providing for the
4 management of the Eastern San Joaquin County Groundwater
5 Basin and the related provision of supplemental water supplies are
6 peculiar to that area and public agencies overlying that basin have
7 joined together to form the Eastern Water Alliance Joint Powers
8 Agency.
- 9 (b) Legislation is needed to supplement the existing authority
10 of member public agencies to allow the Eastern Water Alliance
11 Joint Powers Agency to exercise powers to coordinate efforts to
12 replenish and manage that critically overdrafted basin.
- 13 (c) With additional powers granted by the enactment of the act
14 adding this section, the Eastern Water Alliance Joint Powers
15 Agency will be able to do, among other things, all of the following:
- 16 (1) Provide opportunity for economic development within San
17 Joaquin County by securing reliable future water supplies.
- 18 (2) Protect the natural resources within its boundaries and
19 restore and enhance the environment, including the long-term
20 protection of the basin.
- 21 (3) Develop and adopt a master plan designed to balance the use
22 and enhancement of the basin through conjunctive management.
- 23 (4) Prepare a joint groundwater management plan for the
24 member public agencies.
- 25 (5) Secure new and protect existing surface water rights
26 required by its—~~members~~ *member public agencies* for the
27 implementation of the master plan.
- 28 (6) Apply for and obtain financing to proceed with projects
29 identified in the master plan.
- 30 (7) Provide assistance to, supervise the construction of, and
31 manage the operation of, facilities identified in the master plan for
32 the benefit of ~~its members~~ *the property owners and residents of*
33 *member public agencies*.

1 (8) Develop and manage a groundwater bank in accordance
2 with the master plan.

3 SEC. 2. Section 6533 is added to the Government Code, to
4 read:

5 ~~6533. (a) The Eastern Water Alliance Joint Powers Agency,~~
6 ~~by ordinance, may adopt a procedure for issuing permits for the~~
7 ~~exportation of any groundwater from that portion of the~~
8 ~~groundwater basin that underlies the boundaries of the Eastern~~
9 ~~Water Alliance Joint Powers Agency. The procedure shall identify~~
10 ~~the quantity of groundwater that may be exported and the~~
11 ~~conditions of that export.~~

12 ~~(b) After the date of the adoption of the ordinance pursuant to~~
13 ~~subdivision (a), any ordinance adopted by San Joaquin County or~~
14 ~~the San Joaquin Flood Control and Water Conservation District~~
15 ~~governing the extraction or exportation of groundwater shall not~~
16 ~~apply within the boundaries of the joint powers agency regardless~~
17 ~~of the date of adoption.~~

18 ~~(c) After the date of the adoption of the ordinance pursuant to~~
19 ~~subdivision (a),~~

20 6533. (a) Section 1220 of the Water Code does not apply to
21 actions of the ~~joint powers agency~~ *Eastern Water Alliance Joint*
22 *Powers Agency* to permit the extraction and exportation of
23 groundwater.

24 ~~(d) The board of directors of the joint powers agency may grant~~

25 ~~(b) The board of directors of the Eastern Water Alliance Joint~~
26 ~~Powers Agency may grant~~ available funds to a member public
27 agency for the purposes of assisting that *member* public agency in
28 acquiring water if the board determines that that water supply will
29 benefit the *Eastern San Joaquin County* groundwater basin as a
30 whole and that that *member* public agency would otherwise be
31 unable to acquire that water.

32 ~~(e)~~

33 (c) For the purpose of supplementing the general operating
34 revenues of the joint powers agency, upon the request of the board
35 of *directors of the joint powers agency*, the Board of Supervisors
36 of San Joaquin County may grant to the joint powers agency funds
37 from the county general fund or Zone 2 of the San Joaquin County
38 Flood Control and Water Conservation District that are available
39 to carry out any purpose of the joint powers agency for which the
40 county *or district* is authorized to expend funds.

1 ~~(f) The joint powers agency shall deposit any county funds~~

2 *(d) The joint powers agency shall deposit any county or district*
3 *funds* received pursuant to subdivision ~~(e)~~ *(c)* in a separate account,
4 and upon request of the county *or district*, shall demonstrate that
5 all expenditures made from that account are being used only to
6 carry out the *powers, projects, and purposes* of the joint powers
7 agency.

8 ~~(g)~~

9 *(e)* Subject to Article XIII D of the California Constitution, the
10 joint powers agency may impose a plan implementation charge, in
11 accordance with this subdivision, on landowners within its
12 boundaries for the property related service received from
13 improved groundwater management and planning, and for
14 improved groundwater levels and availability, provided by the
15 joint powers agency. This plan implementation charge shall be a
16 charge for water subject to the procedures and requirements set
17 forth in subdivisions (a) and (b) of Section 6 of Article XIII D, as
18 follows:

19 (1) Each year the board of directors of the joint powers agency
20 may fix a plan implementation charge for the purpose of paying the
21 costs of initiating, carrying out, and completing any of its powers,
22 projects, and purposes. Plan implementation charges may not
23 exceed the annual cost of carrying out the powers, projects, and
24 purposes of the joint powers agency. The board of directors may
25 also use multiyear budgeting to determine the plan
26 implementation charges for up to five years and adopt a schedule
27 of charges for this time period.

28 (2) Before imposing plan implementation charges, the board of
29 directors of the joint powers agency shall identify the parcels of
30 land within the joint powers agency to be benefited by ~~activities~~
31 *the powers, projects, and purposes* of the joint powers agency, the
32 need for plan implementation charges for the purpose of paying the
33 costs of these ~~activities~~ *powers, projects, and purposes*, and the
34 amount of charges to be imposed on each parcel. The amount of
35 the charge upon any parcel may not exceed the proportional cost
36 ~~of the service and improvements attributable to the parcel. The of~~
37 *the powers, projects, and purposes attributable to the parcel. The*
38 *joint powers* agency shall provide written notice of the plan
39 implementation charge and conduct a public hearing as provided
40 in subdivision (a) of Section 6 of Article XIII D of the California

1 Constitution. The *joint powers* agency may not impose the plan
2 implementation charge if written protests against the charge are
3 presented by a majority of the owners of the identified parcels
4 upon which the charge will be imposed.

5 (3) The plan implementation charge, at the option of the joint
6 powers agency, may be collected on the tax rolls of the county in
7 the same manner, by the same persons, and at the same time as,
8 together with and not separate from, county ad valorem property
9 taxes. In lieu of that option, the joint powers agency shall collect
10 plan implementation charges at the same time, together with
11 penalties and interest at the same rates as is prescribed for the
12 collection of county ad valorem property taxes.

13 (4) The amount of an unpaid plan implementation charge,
14 together with any penalty and interest thereon, shall constitute a
15 lien on that land as of the same time and in the same manner as does
16 the tax lien securing county ad valorem property taxes.

17 (5) In lieu of a plan implementation charge being imposed on
18 parcels within the boundaries of any individual member *public*
19 *agency* of the ~~joint-power~~ powers agency, any member of the joint
20 powers agency may determine by resolution to make payment to
21 the joint powers agency of funds in an amount equal to the amount
22 that would be raised by imposition of the plan implementation
23 charge within the boundaries of that member, to be paid at the same
24 time that the plan implementation charge would be collected if
25 imposed.

26 ~~(h)~~—

27 (f) For the purposes of this section, “joint powers agency”
28 means the Eastern Water Alliance Joint Powers Agency.

29 SEC. 3. Section 1011.5 of the Water Code, as added by
30 Section 2 of Chapter 779 of the Statutes of 1992, is amended to
31 read:

32 1011.5. (a) The Legislature hereby finds and declares that the
33 growing water needs of the state require the use of water in an
34 efficient manner and that the efficient use of water requires
35 certainty in the definition of property rights to the use of water. The
36 Legislature further declares that it is the policy of this state to
37 encourage conjunctive use of surface water and groundwater
38 supplies and to make surface water available for other beneficial
39 uses. The Legislature recognizes that the substantial investments
40 that may be necessary to implement and maintain a conjunctive use

1 program require certainty in the continued right to the use of
2 alternate water supplies.

3 (b) When any holder of an appropriative right fails to use all or
4 any part of the water as a result of conjunctive use of surface water
5 and groundwater involving the substitution of an alternate supply
6 for the unused portion of the surface water, any cessation of, or
7 reduction in, the use of the appropriated water shall be deemed
8 equivalent to a reasonable and beneficial use of water to the extent
9 of the cessation of, or reduction in, use, and to the same extent as
10 the appropriated water was put to reasonable and beneficial use by
11 that person. No forfeiture of the appropriative right to the water for
12 which an alternate supply is substituted shall occur upon the lapse
13 of the forfeiture period applicable to water appropriated pursuant
14 to the Water Commission Act or this code or the forfeiture period
15 applicable to water appropriated prior to December 19, 1914.

16 The state board may require any holder of an appropriative right
17 who seeks the benefit of this section to file periodic reports
18 describing the extent and amount of the reduction in water use due
19 to substitution of an alternate supply. To the maximum extent
20 possible, the reports shall be made a part of other reports required
21 by the state board relating to the use of water. Failure to file the
22 reports shall deprive the user of water of the benefits of this
23 section.

24 (c) (1) For the purposes of this section, and subject to
25 paragraph (2), substitution of an alternate supply may be made
26 only if the extraction of the alternate supply meets all of the
27 following conditions:

28 (A) Is from a groundwater basin for which the operating safe
29 yield is not exceeded prior to the extraction of the alternate supply.

30 (B) Does not cause the operating safe yield of the groundwater
31 basin from which the alternate supply is obtained to be exceeded.

32 (C) Conforms to all requirements imposed pursuant to any
33 adjudication of the groundwater basin.

34 (D) Is consistent with any applicable groundwater
35 management plan.

36 (E) Is approved by the water supplier whose service area the
37 water is to be transferred from, if the groundwater basin has not
38 been adjudicated or if a groundwater management plan has not
39 been adopted.

(2) For the purposes of this section, substitution may also be made if the extraction of the alternate supply is from the Eastern San Joaquin County Basin, as described on pages 38 and 39 of the Department of Water Resources Bulletin No. 118-80, for which the operating safe yield is exceeded prior to the extraction of the alternate supply, if all of the following requirements are met:

(A) The conjunctive use program is operated in accordance with a local groundwater management program that complies with the requirements of this section.

(B) The groundwater management program establishes requirements for the extraction of groundwater and is approved by a joint powers authority that meets the requirements of subparagraph (C).

(C) The joint powers authority includes each water agency overlying the contemplated points of groundwater extraction and each water agency that will share in the benefits to be derived from the local groundwater management program.

(D) By either of the following methods, the overdraft of the groundwater basin underlying the point of extraction has been reduced prior to the commencement of extraction:

(i) Elimination of a volume of existing groundwater extractions in excess of the proposed new extraction.

(ii) Recharge of the groundwater basin with a volume of water in excess of the proposed new extraction.

(E) The operation of that conjunctive use program ensures that the overdraft of the groundwater basin continues to be reduced.

(d) Water, or the right to the use of water, the use of which has ceased or been reduced as the result of conjunctive use of surface water and groundwater involving substitution of an alternate supply, as described in subdivisions (b) and (c), may be sold, leased, exchanged, or otherwise transferred pursuant to any provision of law relating to the transfer of water or water rights, including, but not limited to, provisions of law governing any change in point of diversion, place of use, and purpose of use due to the transfer.

(e) As used in this section, “substitution of an alternate supply” means replacement of water diverted under an appropriative right by the substitution of an equivalent amount of groundwater.

(f) This section does not apply to the Santa Ana River watershed.

(g) This section does not apply in any area where groundwater pumping causes, or threatens to cause, a violation of water quality objectives or an unreasonable effect on beneficial uses established in a water quality control plan adopted or approved by the state board pursuant to, and to the extent authorized by, Section 13170 or 13245, which designates areas where groundwater pumping causes, or threatens to cause, a violation of water quality objectives or an unreasonable effect on beneficial uses.

(h) This section shall not be construed to increase or decrease the jurisdiction of the state board over groundwater resources, or to confer on the state board jurisdiction over groundwater basins over which it does not have jurisdiction pursuant to other provisions of law.

(i) This section shall become operative on January 1, 2007.

SEC. 4. The Legislature finds and declares that, because of the unique circumstances applicable only to the Eastern Water Alliance Joint Powers Agency, a statute of general applicability cannot be enacted within the meaning of subdivision (b) of Section 16 of Article IV of the California Constitution. Therefore, this special statute is necessary.

SEC. 5. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because a local agency or school district has the authority to levy service charges, fees, or assessments sufficient to pay for the program or level of service mandated by this act, within the meaning of Section 17556 of the Government Code.

